

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ansley Watson	Team: Team # 8	CCRB Case #: 200709823	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/04/2007 8:30 PM	Location of Incident: the corner of § 87(2)(b) [REDACTED] [REDACTED]	Precinct: 83	18 Mo. SOL 1/4/2009	EO SOL 1/4/2009	
Date/Time CV Reported Wed, 07/11/2007 10:01 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/11/2007 10:01 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Sirka Morales	06340	939068	083 PCT
2. Officers			
3. POM Javier Velez	24737	935924	083 PCT
4. POM Garrett Marsden	04797	938941	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kenneth Quick	02740	924737	083 PCT
		930325	083 PCT
3. POM William Falcone	17540	938455	083 PCT
4. POM Matthew Jozwicki	01402	932837	083 PCT
5. SGT Zoilo Encarnacion	01101	921317	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
6. SGT John Egan	02568	930093	106 PCT
7. POF Ferlie Fox	03396	938496	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used pepper spray against § 87(2)(b) and individuals.	
B. Officers	Force: Officers struck § 87(2)(b) with a baton.	
C.POM Garrett Marsden	Force: PO Garrett Marsden used a chokehold against § 87(2)(b)	
D.POF Sirka Morales	Force: PO Sirka Morales used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F.POM Javier Velez	Force: PO Javier Velez used physical force against § 87(2)(b)	
G. Officers	Force: Officers used physical force against § 87(2)(b)	
H. Officers	Force: An officer used physical force against § 87(2)(b)	
I. Officers	Abuse: Officers entered and searched § 87(2)(b)	
J. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
K.POF Sirka Morales	Abuse: PO Sirka Morales did not obtain medical treatment for § 87(2)(b)	

Synopsis

On July 4, 2007 at 8:30 PM, neighbors were having a large barbecue on the corner of § 87(2)(b) and § 87(2)(b) in Brooklyn. Sgt. Kenneth Quick and PO Sirka Morales of the 83rd Precinct had previously warned § 87(2)(b) the group spokesperson, to lower the music and to stop playing with fireworks. When the officers returned a third time, they decided to issue summonses to § 87(2)(b) and § 87(2)(b). However, because § 87(2)(b) was agitating the onlookers, Sgt. Quick called for back-up so they could arrest § 87(2)(b).

When additional officers arrived, they used pepperspray (**Allegation A**) and their batons (**Allegation B**) to effect the arrest of § 87(2)(b). PO Garrett Marsden of the 83rd Precinct allegedly pressed a nightstick against his neck to restrict his breathing (**Allegation C**). When § 87(2)(b)'s mother, § 87(2)(b) tried to intervene, PO Morales arrested her. PO Morales then allegedly kicked § 87(2)(b) to get her into a patrol car (**Allegation D**).

Officers purportedly pursued an individual who had thrown objects at an officer to § 87(2)(b) where § 87(2)(b) and § 87(2)(b) refused to let them enter. § 87(2)(b) alleged that officers kicked and punched him (**Allegation E**) and that PO Javier Velez from the 83 Precinct stepped on his head as he lay on the ground. (**Allegation F**). Officers also used force to arrest § 87(2)(b) who was standing in the entranceway between the outer and inner entranceway doors and to place him in a patrol car (**Allegation G**). After § 87(2)(b) was placed in the patrol car, an unidentified officer allegedly punched him in his face (**Allegation H**). Unidentified officers then entered § 87(2)(b) and searched the basement (**Allegation I**). Police officers also used physical force against § 87(2)(b) and § 87(2)(b) (**Allegation J**), who were onlookers. At the stationhouse § 87(2)(b) asked PO Morales for medical attention but she never provided any (**Allegation K**).

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b) Hispanic male, filed the initial complaint by phone on July 11, 2007. He gave a phone statement on July 18, 2007, and an official statement on July 25, 2007 (encl.6a-6h). § 87(2)(g)

On July 4, 2007, § 87(2)(b) was attending a neighbor's barbecue at § 87(2)(b). A marked police car drove by and requested that the kids be supervised while setting off fireworks. At about 8:30 PM, PO Sirka Morales from the 83rd Precinct, a short Hispanic female

who was identified from an arrest report, asked § 87(2)(b) to turn the music down because there had been complaints about the noise. § 87(2)(b) told her that it was not his party but that he would comply. PO Morales and her partner Sgt. Kenneth Quick left but returned after driving by a few times. When they returned, PO Morales pointed to § 87(2)(b) and § 87(2)(b) and said that they would be issued summonses.

When Sgt. Quick, who is a white male sergeant in his thirties, about 6 feet tall and slim, asked § 87(2)(b) for his ID, § 87(2)(b) handed it to him. Sgt. Quick told § 87(2)(b) they needed to talk; he grabbed § 87(2)(b)'s arms tightly and tried to pull him. § 87(2)(b) had his arms crossed across his chest and pulled them away from Sgt. Quick but walked with him to the corner. Sgt. Quick tried to pull § 87(2)(b) for a few more minutes and then called for backup. When several officers arrived, Sgt. Quick told them to arrest § 87(2)(b). A white male officer who was 6'3" tall with glasses, identified later as PO Garrett Marsden from the 83rd precinct, pulled out his pepper spray and sprayed § 87(2)(b) (**Allegation A**). The spray may have also hit members of his family who were crowded behind him. When § 87(2)(b) opened his eyes the officers were struggling to put him on the ground and he still had his hands crossed in front of his chest. PO Marsden took out a nightstick and hit him above his right elbow and on his right shoulder (**Allegation B**). § 87(2)(b) fell on his back and was rolled over onto his stomach. The officers handcuffed his left hand and were yelling at him to give them his right hand. He was lying on his right arm and could not give it to the officers because they were on top of him. At this point PO Marsden pressed his nightstick against the right side of § 87(2)(b)'s neck, cutting off his breathing (**Allegation C**). § 87(2)(b) blacked out for about 5 seconds and woke up in handcuffs.

After the handcuffs were on, an unidentified officer hit him with a nightstick in his left ankle (**Allegation B**). § 87(2)(b) did not mention being struck with a nightstick by the second officer in his phone statement or initial complaint. The officer that hit him was one of two officers who helped arrest him. He was either a white male in uniform or a bald black male with a goatee, also in uniform.

§ 87(2)(b) stated that he did not see how his mother, § 87(2)(b) or § 87(2)(b) and § 87(2)(b) were arrested. He did see officers using their nightsticks to shove the crowd back while cursing at them.

§ 87(2)(b) did not receive any medical treatment for his injuries but the investigator took photos of where he was hit with a nightstick. The photos show no marks or injuries other than a small patch of scraped skin above his right elbow.

Results of Investigation

Civilian Statements

§ 87(2)(b)

§ 87(2)(b) provided a phone statement (encl. 17) to the CCRB on August 23, 2007 and scheduled an in-person statement for August 24, 2007. § 87(2)(b) missed the appointment without calling to cancel or reschedule. § 87(2)(b) scheduled another appointment for September 21, 2007. § 87(2)(b) missed his second appointment without calling to cancel or reschedule.

§ 87(2)(b) was attending the barbeque when officers came around and asked the attendees to make sure the kids were supervised. The officers came back ten minutes later and told them to lower the music. They left and came back again ten minutes later saying that it was too loud and there were too many people. § 87(2)(b) then "complained back" saying that their main complaint was about the kids with the fireworks. The officers had an attitude and the civilians were calling them "assholes" and "dicks."

PO Morales, pointed out § 87(2)(b) and § 87(2)(b) and asked for their identification. § 87(2)(b) handed the officers his ID so that they could write a summons and the party could keep going. However, when they approached § 87(2)(b) he "gave them a hard time". He handed them a PBA card of a relative. The officers smacked it out of his hand. The officers then told him they wanted an ID to issue him a summons. § 87(2)(b) never gave them an ID because he was trying to find out why they needed it. The officers called for backup.

As soon as backup came, they pointed to § 87(2)(b) and said, "This guy is under arrest." § 87(2)(b) was confused because he thought he was supposed to get a summons. The officers were trying to pin him down on the ground. An officer was pinning a stick on his neck in a chokehold (**Allegation C**). Three other officers were trying to get his hands behind his back. He was not fighting; he was just not putting his hands behind his back. His family members interfered by trying to pull officers off of him. The officers were hitting § 87(2)(b) with sticks and saying that he was resisting arrest (**Allegation B**). One officer told the crowd to pull back. When no one did so, he pepper sprayed into the crowd (**Allegation A**).

One of the officers was assaulted at some point. The officer pointed out the house into which the assailant had run. Other officers tried to run into the house but the civilians would not let them enter.

PO Morales still had § 87(2)(b) ID so he went to the precinct at 9:30 PM to retrieve it. About 11PM, he was still waiting and started complaining that he was a city worker. As he was leaving, officers arrested him for having an outstanding warrant.

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b) d white Hispanic female, was interviewed (encl. 9a-9c) at her home at § 87(2)(b) on August 15, 2007. § 87(2)(b) is § 87(2)(b) mother.

§ 87(2)(b) was standing with her son § 87(2)(b) when PO Morales walked up to § 87(2)(b) and told him to turn the music down. § 87(2)(b) told PO Morales that they were guests and that it was not their party. PO Morales left and returned later with a white male partner, a sergeant who was identified as Sgt. Quick. PO Morales told them that they could not have a gas grill in the street and that they were having an "illegal party." When Sgt. Quick asked § 87(2)(b) for his ID, he asked why because he hadn't done anything. § 87(2)(b) did not give Sgt. Quick his ID because the sergeant did not give him the "time to get it." § 87(2)(b) turned to speak to PO Morales when she suddenly noticed that § 87(2)(b) was on the ground. Two officers jumped out of another car, including an officer in a white shirt. The officer in a white shirt was a heavyset white male, who was 5'9" tall, had short hair, and is in his fifties. This officer was later pepper spraying the crowd (**Allegation C**).

§ 87(2)(b) bent down to pick § 87(2)(b) up and PO Morales shoved her in her shoulder. PO Morales arrested her and pulled her to the right side of the car. PO Morales then kicked § 87(2)(b) once in her right thigh, kicking her into the car (**Allegation D**). In her phone statement § 87(2)(b) mentioned being "pushed and shoved" by PO Morales but not being kicked. PO Morales slammed the door and moments later § 87(2)(b) was put into another patrol car.

§ 87(2)(b)

§ 87(2)(b) filed a complaint with IAB on July 4, 2007 (encl. 4a-4b) and provided a phone statement (encl. 11) to CCRB on July 31, 2007. She stated officers had come around to the party several times and said the kids could not set off fireworks. PO Morales, who was partnered with Sgt. Quick, said "I should have shut down this fucking barbecue a long time ago." Sgt. Quick then told § 87(2)(b) he wanted to talk to him and grabbed § 87(2)(b) arm. § 87(2)(b) said that he could speak to him there. This repeated itself two more times. § 87(2)(b)

§ 87(2)(b) tried to explain that that was not his house. § 87(2)(b) was standing about 4 feet away.

Backup officers pulled up and while § 87(2)(b) was tackled. Sgt. Quick and another officer pulled § 87(2)(b) down. She partially landed on § 87(2)(b) and partially on the sidewalk. Soon afterwards she felt pepper spray hit her in the right side of her face. She did not see who used the pepper spray. In her statement to IAB she said that she was pushed by an officer with shield number 2440. IAB identified this officer as DT3 Richard S. Seifts. One of her cousins tried to reach over and pick her up. An officer said that he did not care who she was, pushed her cousin, and pushed her back down to the ground (**Allegation J**).

On July 31, 2007 § 87(2)(b) stated that she had no time to give an in-person statement anytime in the next month. On October 9, 2007 the investigator spoke to § 87(2)(b) again who stated that she could not give an in-person statement even if one was scheduled during the weekend.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) black male who is 5'9" tall and weighs 170 pounds. He made two statements to CCRB: a phone statement on July 17, 2007, and an official statement on July 24, 2007 (encl. 8a-8f). He filed a Notice of Claim on July 30, 2007 (8g-8m) and testified at the 50h hearing (encl. 8n-8cc) regarding his suit on § 87(2)(b). § 87(2)(g)

On July 4, 2007, § 87(2)(b) attended a block party where there were about 50 people who were drinking and setting off fireworks. He saw PO Morales ask § 87(2)(b) for his ID which he handed to the officer. While she held his ID, the sergeant, subsequently identified as Sgt. Quick, grabbed § 87(2)(b) and tried to pull him as if he was going to arrest him. Sgt. Quick, who was getting angry, pulled § 87(2)(b) several times; § 87(2)(b) kept saying that they had his ID.

Suddenly § 87(2)(b) was on the ground and a white male officer put a nightstick on his neck (**Allegation C**). § 87(2)(b) said he could not identify the officer from a photo. As § 87(2)(b) was on the ground with officers on top of him, his family converged from behind him. A white male officer pepper sprayed the crowd. (**Allegation A**). The officers later said that an officer was hurt. An officer called for backup and many officers arrived.

§ 87(2)(a) Gen.Mun. §50-H(3)

Because officers were using pepper spray, § 87(2)(b) told his girlfriend to take his son upstairs to their § floor apartment. § 87(2)(a) Gen.Mun. §50-H(3)

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In his phone statement, he said he was in the “hallway” when officers stepped on him and arrested him. In this official statement, he said he went inside the entranceway, between the two doors, by the mailbox. When he turned around, he saw ten officers at the door. A short Hispanic

male told him they needed to search the house because they had seen someone running inside. When § 87(2)(b) refused them entry, a number of officers grabbed him, pulled him outside and threw him to the ground.

The officers then pulled him up and brought him to the police car. In his official statement, he said that an unidentified white male, who was short and muscular, opened the back door on the driver's side door and punched him several times in the head and shoulder (**Allegation H**). § 87(2)(b) stated that he would not recognize a photo of this officer. § 87(2)(a) Cap. Mus. § 50

H(3)

§ 87(2)(b) was taken to the precinct and in his cell asked PO Morales for medical attention. She responded "okay" but did not call an ambulance (**Allegation K**). § 87(2)(a) Cap. Mus. § 50

H(3)

. After being released, § 87(2)(b) went to § 87(2)(b) for treatment.

When § 87(2)(b) was interviewed on July 23, 2007, he would not sign a medical release form because he was a slow reader. Between December 15, 2007 and July 8, 2008, the CCRB contacted him 5 times and mailed him 2 medical release forms for him to sign. He indicated on several occasions that he would so. In addition, his civil attorney's office was contacted on July 17, 2008 and requested to have him return the form. § 87(2)(b) never returned the form.

§ 87(2)(b) also scheduled two appointments to be interviewed on August 29, 2008 and September 5, 2008 in connection with a subsequent complaint, § 87(2)(b) that he had filed. At that time, additional attempts to have him sign the HIPPA medical release form and to have him view photos of potential subject officers were going to be made. However, he missed both interviews without contacting the CCRB.

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b) black male, gave a phone statement on July 17, 2007, and an official statement on July 24, 2007 (encl. 7a-7g).

§ 87(2)(b) was returning home when he noticed a big crowd gathered at § 87(2)(b) and § 87(2)(b). He walked to the corner with his cousins § 87(2)(b) and § 87(2)(b) to see what was happening. § 87(2)(b) was on the ground with officers trying to handcuff him. There were four or five officers there including PO Morales, and her partner, a Hispanic male who was 5'6" tall, slim, in his late twenties. This officer and several other officers had their nightsticks out and one officer had pepper sprayed § 87(2)(b) (**Allegation A**). After 5 minutes, § 87(2)(b) told them to move before the police started shooting. So they all walked away from the corner and went inside the house.

§ 87(2)(b) stood directly in front of the doorway with § 87(2)(b) right next to him while § 87(2)(b) stood behind him inside the house. Ten to fifteen minutes later, eight to nine officers rushed up to their house and an officer, identified as PO Javier Velez, told § 87(2)(b) to "get the fuck out of my way." PO Velez was a Hispanic male, 5'9" tall, muscular, in his late twenties, in plainclothes. The officers told them that someone had run into the building. § 87(2)(b) was blocking the doorway with his body so that officers could not get inside. § 87(2)(b) replied that no one had entered and because they did not have a warrant, they needed to get off of his property. When he said that, officers slammed him on the ground in front of his door and raced inside to get his brother (**Allegation E**).

They handcuffed § 87(2)(b)'s left arm but they could not get his right arm because they were on top of him. He felt a nightstick hit him in the lower back and felt people kicking and punching him. PO Velez had his foot on the back of § 87(2)(b)'s head and pressed him into the ground (**Allegation F**). The officers were yelling at him to stop resisting and give them his right

arm but he could not because of the weight on top of it. He heard them talking about mace and he was trying to yell that he was not resisting them. At one point he kicked his feet to signal that he was not resisting but they were on top of his right arm. The officers handcuffed him using two sets of handcuffs.

§ 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) was interviewed (encl. 10a-10b) at § 87(2)(b) in Brooklyn on August 15, 2007. § 87(2)(b) is a § 87(2)(b) old Hispanic female and the wife of § 87(2)(b). She provided the following statement to the CCRB.

On July 4, 2007 a neighborhood cookout was taking place 2 houses down on § 87(2)(b) and her husband § 87(2)(b) had gone to get food and brought it back to their house. She was standing with § 87(2)(b) by the stairwell inside their doorway when a fight broke out at the corner. An officer requested backup and many police cars came to the street. § 87(2)(b)'s cousin § 87(2)(b) was standing at the gate of the home and several officers walked past him to the house.

Several officers came to the door of her home and asked § 87(2)(b) if they could go inside to search. He said that unless he saw a warrant, he could not let them into the house. Several officers barged past him while pushing him down on the ground. There were ten to fifteen officers, some in uniform and some in plainclothes. The officers were Hispanic and white but § 87(2)(b) said that she would not be able to identify them from photos.

After pushing § 87(2)(b) to the ground several officers began punching him with closed fists and kicking him. One of the officers that came in was bleeding and another officer grabbed toilet paper and handed it to him. She saw several officers running down into her basement looking for something (**Allegation I**). After a minute she ran upstairs to her apartment, closed the door, and locked it. She heard banging on the door but did not answer it. She came down a few minutes later and found § 87(2)(b) in a police car. § 87(2)(b) was complaining that he had been beaten up and asked her to call an ambulance. She called for an ambulance but one never came.

§ 87(2)(b)

§ 87(2)(b) a cousin of § 87(2)(b) and § 87(2)(b) provided a phone statement (encl 12a) on July 17, 2007. In the phone statement he indicated that he and § 87(2)(b) pulled up to their house between 7 and 9 PM and saw a ruckus on the corner of § 87(2)(b) and § 87(2)(b). They walked over and saw four or 5 officers trying to arrest § 87(2)(b). They pepper sprayed him. § 87(2)(b) was standing within 5 feet of § 87(2)(b). A female officer yelled "officer down" and many more officers kept coming to the scene. Because there was a "riot" going on, § 87(2)(b) told them to go inside and wait for things to die down.

They were standing by the gate and were about to go inside when officers followed them. They knew the officers did not have a warrant so they went inside. One officer approached § 87(2)(b) and said that they needed to go inside the house because someone had run into the house. § 87(2)(b) argued with the officer, who then grabbed him. In his second phone statement § 87(2)(b) mentioned that 20 officers jumped on top of § 87(2)(b) with nightsticks and were beating him up. The officers ran into the house and arrested both of his cousins. A skinny Hispanic male, who was 5'9" tall, in his twenties, had a short haircut, and was in uniform hit § 87(2)(b) twice in the leg with his nightstick (**Allegation J**). His left leg was swollen afterwards. § 87(2)(b) subsequently missed three scheduled appointments on July 18, 2007, July 20, 2007 and July 27, 2007.

§ 87(2)(b)

§ 87(2)(b) provided a phone statement (encl. 12b) to the CCRB on August 2, 2007 but refused to provide an in-person statement to the CCRB. When § 87(2)(b) and § 87(2)(b) his cousin, pulled up there was a scuffle taking place. § 87(2)(b) parked the car while § 87(2)(b), § 87(2)(b), § 87(2)(b) went to the house. They were all holding beers so § 87(2)(b) told them to put them away so the police wouldn't go inside the house. § 87(2)(b) told them all to get back to the house because it was getting out of hand. § 87(2)(b) went with them back to the gate. They were inside their gate and out of nowhere 25 to 30 cops charged at the gate ready to come into the house. § 87(2)(b) stopped them at the door and asked them why they were going into the house. The officers pushed § 87(2)(b) away with his nightstick and pinned § 87(2)(b) against their neighbor's gate and then put him on the floor. He did not see the officers hitting § 87(2)(b) but his guess is that they were. The officer that pushed him was a heavyset Hispanic male, 6'0" tall, in his thirties, and was in uniform.

§ 87(2)(b) could not see exactly what was going on because there were a lot of officers. § 87(2)(b) continued to tell them not to come in. He was about to go back into his house and the police officers told him to go around the block because he could not go into the house at that moment. They grabbed § 87(2)(b) and pushed him extremely hard into the car.

§ 87(2)(b)

§ 87(2)(b) provided a phone statement (encl. 13) to the CCRB on August 15, 2007. § 87(2)(b) stated that he was unwilling to go to the CCRB to give an in-person statement. § 87(2)(b) stated that the whole incident started because officers were coming around and talking about fireworks. The officers came around again another time and said that people were complaining that there was too much noise. The officers left and came back again and pulled his friend § 87(2)(b) to the side and asked for his ID. § 87(2)(b) was about 5-10 feet behind § 87(2)(b) along with about 50 people from the barbecue. § 87(2)(b) was talking to a guy and the officer then said that he was getting arrested. § 87(2)(b) asked why and the officer kept saying "Put your arms behind your back." § 87(2)(b) didn't move his arms from being crossed on his chest and kept asking why he was getting arrested.

The crowd behind § 87(2)(b) was just listening to the conversation until the officer started to arrest him and then everyone was yelling, "Why is he being arrested? He didn't do anything." § 87(2)(b)'s mother, § 87(2)(b) was speaking with the officers. The officer, a white male with blonde hair and glasses, then threw him on the ground and tried to get him handcuffed. The officers then maced him and the same officer put a stick on his throat in a "choke maneuver" (**Allegations A and C**). § 87(2)(b)'s face began to turn red quickly and he briefly seemed to pass out. § 87(2)(b) was pushed to the ground because she was next to § 87(2)(b) and she got hit by the mace when they sprayed § 87(2)(b) with mace. § 87(2)(b) and his cousin § 87(2)(b) pulled § 87(2)(b) up off of the ground. Everything got "rowdy" and "hectic." The officers were trying to get everyone back and were macing the crowd. There were many "spectators" who were coming from nearby barbecues and were not being cooperative with the officers' instructions to move back.

As § 87(2)(b) was moving back, about 15 minutes after § 87(2)(b) was arrested, he saw officers going next door into someone's house and pulling someone out of the house. The man was named "§ 87(2)(b) about 6'1 or 6'2, very big" got pulled out of his house. They ran up into his house to arrest him. They were standing talking to § 87(2)(b) and he was inside his doorway and 4 or 5 officers rushed in and arrested him. He heard that they maced him but he saw the 4 or 5 officers trying to restrain him and get handcuffs on him. The officers took their nightsticks out.

He believes they hit him with their nightsticks (**Allegation J**). § 87(2)(b) was inside of the door of his house because they had been barbecuing themselves.

§ 87(2)(b)

The investigator called § 87(2)(b) on August 15, 2007 and took the following phone statement (encl. 14). § 87(2)(b) scheduled an in-person statement for August 20, 2007 which he missed without canceling. § 87(2)(b) scheduled another interview for September 10, 2007. § 87(2)(b) missed his second appointment without calling to cancel or reschedule.

§ 87(2)§ 87(2)(b) and § 87(2)(b) were standing on § 87(2)(b) close to § 87(2)(b) at a big family barbecue. Two Crown Victorias that pose as cab cars drove around the area. At 5:30 or 6 PM one of them pulled up and a female officer and a sergeant came out in uniform and told them that the kids can't play with the fireworks. His friend § 87(2)(b) spoke with them. They thought it was nothing and it was over.

The officers came back 15 to 20 minutes later and they said that the music was too loud. So they turned the music down and the officers left. The officers came back a 3rd time a half hour later and said that they can't use fireworks at all. § 87(2)(b) was speaking to the officers and § 87(2)(b) was further back. § 87(2)(b) was saying, "First you said the kids can't play with the fireworks, and now you are saying no one can, make up your mind." The "Sergeant," (Sgt. Quick) asked for his ID and he gave it to him. Sgt. Quick pulled § 87(2)(b) into the street and "something was said." and Sgt. Quick told § 87(2)(b) he was being arrested. § 87(2)(b) kept asking what he was getting arrested for. His mother then went over to see what was going on; she spoke to the female officer. The adults all started paying attention.

Sgt. Quick called for backup and just kept saying he was being arrested. As soon as the first sector car came to the scene he tried to tackle § 87(2)(b) and arrest him. Sgt. Quick kept saying § 87(2)(b) was getting arrested. Officers started hitting him with sticks and tackling him (**Allegation B**). § 87(2)(b) had his hands folded asking what he was getting arrested for. He said that he would not unfold his hands until they told him why he was being arrested. The officers were hitting him really hard as if he had committed a serious crime. § 87(2)(b) was in the street and the crowd was on the sidewalk. After the sergeant shoved § 87(2)(b) to the ground, § 87(2)(b) helped her up. The crowd was yelling at § 87(2)(b) to unfold his arms.

As this happened, another officer, a white male, who was almost bald, was short, skinny, was not muscular, was in uniform, and in his forties, came out of the car looking like he was "ready to fight" and asked Sgt. Quick, "which one Sarge?" The officer then started spraying mace at § 87(2)(b) and into the crowd to back everyone up from the incident (**Allegation A**). The white male officer then pushed his stick into § 87(2)(b)'s neck and he passed out (**Allegation C**). The officers then threw him in the car. § 87(2)(b) was trying to "defend" § 87(2)(b) by pushing the officers off of him.

There were about 35 to 50 cops at the scene and it was "total chaos." A black van came and many squad cars came to the scene. The officers tried to back people up by pushing people into the houses. The sergeant told another officer to arrest § 87(2)(b) and the officer asked "for what?" The sergeant said for resisting arrest. § 87(2)(b) began screaming and crying. The officer asked her if she wanted to file a complaint and she said she wanted to speak with someone in a white shirt. Officers rushed into the house of neighbors and pulled them out of the house and arrested them. The officers were beating them on the way to the car.

§ 87(2)(b)

The investigator visited § 87(2)(b)'s house on August 16, 2007 but § 87(2)(b) was unwilling to give a statement. After speaking to § 87(2)(b)'s lawyer, the investigator took the following statement (encl. 15) from § 87(2)(b) on August 22, 2007 and scheduled an in-person

statement for August 24, 2007. § 87(2)(b) missed the appointment without canceling and never responded to a missed appointment letter or follow-up phone call.

§ 87(2)(b) was standing by the garages on § 87(2)(b) in the middle of the block with a friend. She saw two black guys standing in front of their house. All of a sudden 15-20 officers came and said they wanted to enter the house because an officer had gotten hurt and they thought the assailant had run into the house. The officers struck the two men to get out of the way. The officers stomped on them with their feet and with nightsticks.

Although she told her friend to take out her phone and take some pictures, she never did. "PO Brach" came out of nowhere and said "back up." "PO Brach" was a Hispanic female, who was tall, skinny, wore glasses, had dark brown hair, was in her late twenties, and § 87(2)(b) read her name off of her uniform. "PO Brach" came again and said, "I told you to back the fuck up." She then backed up. When she turned around, an officer hit her girlfriend with a nightstick in her chest. The officer was a white male who was 5'5" tall, was muscular, and was in beige shorts and a green shirt. Several officers then threw them both on a car parked in front of the garage (**Allegation J**). § 87(2)(b)'s arm was bruised and her legs were swollen as a result. At the precinct they told them they were going to get a summons for disorderly conduct.

§ 87(2)(b) § 87(2)(b)

The CCRB took a phone statement (encl. 16) from § 87(2)(b) on August 23, 2007. § 87(2)(b) was not willing to provide an in-person statement to the CCRB. When § 87(2)(b) came there were already many officers on the street. Officers were grabbing a lot of people who were just watching. Everyone was yelling, "Move back, go in the house, clear the scene." Someone that lives exactly across the street got arrested.

She saw a short black male with dreads get beat up (**Allegation G**). The officers ran in his house, pulled him out and tried to push him into the car. He kept saying "I didn't do anything." When he was already handcuffed and out of the house they put him on the ground and were kicking him.

Additional Witness Contact Attempts

The investigator sent please call letters to witnesses § 87(2)(b) § 87(2)(b) on August 20, 2007. The investigator called § 87(2)(b) § 87(2)(b) on September 19, 2007 and left a message asking her to call. None of the above witnesses contacted the investigator or provided any statements to the CCRB.

Officer Statements

PO Kenneth Quick

Memo book (encl. 18a-18c)

2020: 10-98 (resume Patrol as operator w. PO Morales)

2030 Pick up 10-50 Disorderly person § 87(2)(b)

2040 10-91 (WtA) Condition corrected, Circle block twice, observed § 87(2)(b) lighting fireworks w/ Children, instructed to lower music, not to discharge fireworks

2050 PU 10-50 @ § 87(2)(b) Observed deft § 87(2)(b) shooting off fireworks in street, obstruct traffic, illegible § 87(2)(b) because disorderly

10-85 9 additional unit) @ § 87(2)(b) in re crowd control level 2

2115 10-92 (x^ by PO Morales) Capt Henderson on scene

2130 10-62A off the air

2300 10-92 C of § 87(2)(b) for § 87(2)(b), resisting at 83 SH

Sgt. Quick was interviewed (encl. 18e-18h) at CCRB on September 30, 2008. He is a § 87(2)(b) year old white male who is 6' tall and weighs 200 pounds. He has brown hair and brown eyes and is currently assigned to the Office of Management Analysis and Planning. Sgt. Kenneth Quick was the Detail Supervisor on July 4, 2007. He worked from 5:30 PM until 2:12 AM and was partnered with PO Sirka Morales. About 8:30 that evening, they were driving on § 87(2)(b) when they saw between 150-200 people having a party in the street: they were having a barbecue, setting off fireworks and playing loud music. He observed § 87(2)(b) setting off fireworks with children nearby.

He and PO Morales pulled over. They spoke to § 87(2)(b) and the group in general. Sgt. Quick advised them that they had to turn down the music to be respectful and that fireworks and open containers were not permitted. They left and circled the block. On the way back, the music had been turned up loud again and people were playing with the fireworks again. Sgt. Quick again spoke to § 87(2)(b) who seemed to be the spokesperson for the crowd. Sgt. Quick explained to § 87(2)(b) that he was trying to cut him a break and reiterated that open containers, fireworks and loud music was not permitted. The officers again left.

When they returned 15 minutes later, the traffic was back-upped because § 87(2)(b) was setting off fireworks in the street. Because Sgt. Quick had already given two warnings, he decided to issue summonses to both § 87(2)(b) and § 87(2)(b). § 87(2)(b) readily complied and handed over his ID. However, initially § 87(2)(b) refused to provide his ID. However, he finally complied but was verbally abusive which created a commotion among the crowd.

Sgt. Quick decided to arrest § 87(2)(b). However, because he did not feel safe, he called for an additional unit. He then subsequently called an 85 for additional officers. When PO Marsden and his partner, whom Sgt. Quick could not remember was, arrived, he told § 87(2)(b) he was under arrest. As Sgt. Quick tried to grab his arm, § 87(2)(b) ripped it out of the sergeant's hand; he also swung at the sergeant but did not connect. A brief struggle ensued and officers took § 87(2)(b) to the ground. Sgt. Quick struck § 87(2)(b) approximately 3 times on § 87(2)(b) thigh to make him loosen up his hands. Sgt. Quick did not know if any other officer used their batons. He did not know if PO Marsden had his baton out. § 87(2)(b) did not complain of any injuries or complain about not being able to breathe.

While about 5 officers were struggling to handcuff § 87(2)(b) Sgt. Quick called for a "Level 1" mobilization which resulted in about 70 officers from multiple commands responding. Bystanders were yelling. Sgt. Quick did not think he got hit with any flying objects and did not know of any other officer's being hit. He did not recall any officer's being injured. It took about 1 minute for the officers to handcuff § 87(2)(b). Sgt. Quick believed PO Morales was also involved in helping to restrain § 87(2)(b). Sgt. Quick was shown the arrest photo of § 87(2)(b) the mother of § 87(2)(b). He could not specifically identify her or her or her actions although he later recalled there was one woman trying to interfere with § 87(2)(b) arrest. However, he did not specifically see PO Morales physically arrest anyone. He also lost track of § 87(2)(b) until he later came to the precinct to pick up his ID.

After § 87(2)(b) was placed in the patrol car, he directed Officers Morales and Marsden to transport him to the precinct. Because the party had not calmed down, Sgt. Quick decided that officers had to disperse the party. Captain Henderson, the XO of the 83 was also present and Sgt. Quick was debriefing him. Sgt. Quick was trying to get people to clear the streets and clean up the grills. He estimated that it took between 15 and 30 minutes to do so. He was one of the last officers to leave. When he left there were probably still 20 to 30 civilians in the area. He had no information about the other individuals who were arrested but presumed that they had been the most vocal of individuals not complying with officers' directives to disperse.

He viewed the arrest photos of § 87(2)(b) and § 87(2)(b). He indicated he first saw them at the stationhouse and was unfamiliar with the details of their arrests. He reviewed the

Criminal Court Complaint relating to the § 87(2)(b) brothers in which PO Morales was the deponent. He could not provide any information regarding their arrests for marijuana.

He viewed the three photographs of the scene (encl. 28a-28c). He identified the store, § 87(2)(b), on the corner of § 87(2)(b) as being the location where § 87(2)(b) was arrested. In the second photo, he circled the second story windows of the next two buildings adjacent to Shop Smart, from which he believed the loud music was emanating. The second building (on the left in the photo) is § 87(2)(b). He didn't know when the music coming from one of these apartments was ultimately turned down. He remembered the door of the building being pried open. He did not see any officer or direct any officer to enter § 87(2)(b). He did not see anyone arrested at that building.

After he left the location, he returned to the stationhouse where he helped administratively with the arrest processing and where he debriefed the desk officers. He was unaware of any prisoner's asking for medical treatment.

He then viewed the video of the incident. However, he couldn't provide any more significant details about the incident.

PO Sirka Morales

PO Sirka Morales, a § 87(2)(b)-old Hispanic female who is 5'11" tall and weighs 145 pounds, was interviewed at the CCRB on March 21, 2008. PO Morales has been a member of the NYPD for 2 years and is assigned to the 83rd Precinct. On the date of the incident PO Morales was working overtime with Sgt. Quick, was in uniform, and was assigned to a marked RMP. PO Morales did not bring her memo book to her CCRB interview.

According to her memobook (encl. 19a-19d), she was assigned to the fireworks detail. At 9:20, there were 6 "under" at § 87(2)(b). She then listed jewelry that she returned to relatives of those arrested.

Arrest Reports (encl. 34a-34e)

The arrest reports for § 87(2)(b) filled out by PO Morales show that all the arrests took place at 9:15 PM at the corner of § 87(2)(b) and § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). § 87(2)(b) were charged with § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). The reports also stated that the defendants refused a lawful order to disperse.

Criminal Court Complaint (encl. 36a-36b)

The criminal court complaint charged § 87(2)(b) with § 87(2)(b). PO Morales stated that on July 4, 2007 at about 9:10 PM, she observed apprehended individuals § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) and about 50 other congregating on a sidewalk with a gas grill, loud music, fireworks and blocked pedestrian traffic. When she asked defendants § 87(2)(b) to move along they began yelling, screaming and cursing which caused a crowd to gather. When she attempted to handcuff them, they refused. PO Morales observed both

defendants in possession of a quantity of marijuana in that she recovered marijuana from § 87(2)(b) person and from a mailbox where defendant § 87(2)(b) was observed placing the marijuana. Based on her professional training and experience, she believed the substance to be marijuana, which was later confirmed by a chemical analysis.

CCRB Statement (encl. 19e-19g)

§ 87(2)(g)
She noted that when they decided to issue a summons, § 87(2)(b) was irate and agitating the crowd. One of them warned him that he could be arrested for disorderly conduct if he continued.

They then decided to arrest him. When Sgt. Quick tried to place handcuffs on him, he swung his arms, cursed and resisted being handcuffed. Sgt. Quick was able to handcuff § 87(2)(b) before other officers arrived although later in the interview she said that she did not recall any officer helping Sgt. Quick try to arrest him. He was put on the ground to be handcuffed. PO Morales and Sgt. Quick called for backup because they were concerned about the large, agitated crowd and felt they would be “overpowered.” Many officers came to the scene from different commands

§ 87(2)(b)'s mother approached and started cursing and yelling at PO Morales in English and Spanish saying “that’s my son” and pushed PO Morales with both palms out in her chest. PO Morales then tried to turn her around and put her in handcuffs. § 87(2)(b) was kicking and screaming and swinging her arms to try to prevent PO Morales from handcuffing her. § 87(2)(b) struggled the whole time that she was being put into the RMP and kicked her body to prevent them from pushing her into the car. PO Morales was able to get her into the car by pushing her with her hands but never kicked § 87(2)(b) who was kicking the sides of the car to prevent herself from being pushed in.

After being handcuffed, § 87(2)(b) kicked the car to try and prevent them from putting him into a patrol car. Sgt. Quick never drew any of his weapons including nightstick or pepper spray. After § 87(2)(b) was handcuffed, a male PO Morales could not identify punched Sgt. Quick in the head.

PO Morales then went back to the crowd for about 5 to 10 minutes because the crowd was fighting and throwing beer bottles. Officers were telling the crowd to get back but were not cursing. No bottles hit her but bottles hit other officers and it felt like a “riot.” People were jumping on cars and screaming at the officers. PO Morales did not see what Sgt. Quick was doing or what other arrests were being made. PO Morales did not see Sgt. Quick hit by anything and did not recall if he sustained any injuries. PO Morales was there for “most of the arrests” but could not give specific details about any of the arrests besides § 87(2)(b) and § 87(2)(b). PO Morales did not see any officers enter a house because, “everyone was outside.” PO Morales did not see if § 87(2)(b)'s house was entered and did not know if the Sgt. Quick instructed officers to enter a house. PO Morales did not see anyone run away into a house and never entered any houses herself. PO Morales does not know if anyone was arrested in relation to the punch or what happened after she left the scene. PO Morales did not recall any officers using pepper spray at any point during the incident.

PO Morales was shown photos of § 87(2)(b) and § 87(2)(b) and stated that she remembered seeing them fighting with officers but did not see them put into handcuffs. She remembers them struggling with officers, resisting arrest, spitting, and fighting. PO Morales did not see any officers strike § 87(2)(b) or § 87(2)(b) or use any force against them. PO Morales did not see any officers strike either § 87(2)(b) or § 87(2)(b) with nightsticks.

PO Morales then drove § 87(2)(b) to the precinct and she continued spitting, fighting, and cursing going in to the stationhouse, and for the entirety of the time she was there. PO Morales was shown photos of the corner and stated that the last two houses on § 87(2)(b) leading up to § 87(2)(b) was where the party was happening. § 87(2)(b) was arrested in front of the shop on the corner, and § 87(2)(b) and § 87(2)(b) were arrested further down the block in front of houses. All of the arrests were for § 87(2)(b) and there was nothing different about the reason for each arrest. None of the individuals who were arrested complained of any injuries or had any injuries.

PO Garrett Marsden

PO Garrett Marsden, a 6'5" tall white male, who weighs 230 lbs., has brown hair, and is § 87(2)(b) old, was interviewed (encl. 20d-20e) at the CCRB on December 12, 2007. On the date of the incident PO Marsden worked from 3:00 PM to 11:35 PM, was assigned to sector AB with PO Falcone, was in uniform, and was in marked RMP 1502. PO Marsden's memo book (encl. 20a-20c) shows that at 9:00 PM there was a call for back up from the detail sergeant at § 87(2)(b).

PO Marsden was about two minutes away from § 87(2)(b) and § 87(2)(b) when he got a call from Sgt. Quick requesting one additional car. PO Marsden was en route when Sgt. Quick put over another call asking for a full 10-85. When he and PO Falcone arrived on the scene they observed Sgt. Quick struggling with a man § 87(2)(b) and attempting to subdue him. As they stepped out of the car, Sgt. Quick and § 87(2)(b) fell on the ground in the street. § 87(2)(b) then tried to retreat into the large crowd of 50 to 75 people that were nearby on the sidewalk. PO Marsden grabbed § 87(2)(b) from behind as he ran away and they fell onto the ground. PO Marsden then removed his handcuffs and attempted to handcuff § 87(2)(b) § 87(2)(b) pulled his hands away and tried to prevent PO Marsden from handcuffing him by wriggling out of his grip. PO Marsden did not draw any weapons or use any force against § 87(2)(b).

Sgt. Quick helped PO Marsden handcuff § 87(2)(b) while PO Falcone tried to control the crowd. The officers were telling the crowd to get back. PO Marsden stated that he did not see his partner draw or use his pepper spray on the crowd or tell them to, "Get the fuck back." The crowd was rowdy and loud and throwing objects at the officers including a cinderblock in the vicinity of PO Marsden. PO Marsden stated that no one was physically interfering with his attempt to arrest § 87(2)(b). PO Marsden did not interact with any civilians besides § 87(2)(b) § 87(2)(b). After a minute of struggle § 87(2)(b) was placed in handcuffs and put into PO Marsden's car. PO Marsden then drove with PO Morales to the precinct to process the arrest. Many officers arrived while he was arresting § 87(2)(b) and many people were there by the time he left. PO Marsden stated that he was at the scene for about 5 to 10 minutes altogether.

PO Falcone

PO William Falcone, a § 87(2)(b) old white male who is 5'10" tall, weighs 180 pounds and has brown hair was interviewed (encl. 21d-21e) at the CCRB on October 29, 2007. On the date of the incident PO Falcone worked from 3:00 PM to 11:35 PM, was assigned to sector G, was in uniform, and was partnered with PO Marsden. PO Falcone's memo book (encl. 21a-21c) showed that at 9:00 PM there was a call for assistance at § 87(2)(b) and § 87(2)(b).

PO Falcone received a radio call that a unit had stopped someone at § 87(2)(b) and Central. PO Falcone knew that that spot might be "explosive" because he had driven by earlier in the tour and had seen lots of people out on the corner. On the way over, he heard Sgt. Quick call a 10-13 for backup. He was approximately 12 blocks away in sector G when he received the original call. PO Falcone drove up § 87(2)(b) and parked on § 87(2)(b) near where Sgt. Quick was struggling to handcuff a man. Sgt. Quick was trying to grab the man's arms while standing and facing him

and the man kept pulling his arms back towards his chest. PO Falcone and his partner approached to help with the arrest and § 87(2)(b) began trying to back up into the crowd. While backing up he tripped and fell onto the ground. The three officers then began trying to grab his hands and handcuff him on the ground. PO Falcone did not use any weapons in handcuffing § 87(2)(b). He initially had his flashlight out but put it away when trying to handcuff § 87(2)(b).

While trying to handcuff § 87(2)(b) on the ground the crowd was getting within 3 feet of PO Falcone. At that time PO Falcone heard Sgt. Quick say that someone hit him. Sgt. Quick said that someone had blindsided him and he had not seen the assailant. Sgt. Quick did not tell anyone where the assailant had gone. The crowd was still very close to PO Falcone and something was thrown at PO Falcone which bounced off the sidewalk near him. PO Falcone stated that there were 50 to 100 people in the crowd and that he felt it was a “very volatile situation.” He told the crowd to back up several times but they did not comply. PO Falcone never cursed. PO Falcone then took out his pepper spray and shot a short burst into the nearest members of the crowd as a warning. After one short spray he put away the pepper spray and did not need to use it again because backup officers began to arrive.

The officers were able to handcuff § 87(2)(b) on the ground and no officers struck him at any point or used an asp. At no point did any officer put pressure on § 87(2)(b)'s neck and he did not black out at any point during the incident. § 87(2)(b) did not complain of any injuries and another officer took him to a patrol car.

Everyone from the 83rd Precinct arrived as well as officers from other precincts. He later saw PO Harvey with an injury to his face but did not recall any other officers that were on the scene. PO Falcone was shown photos of all the arrestees and did not recognize any of them. PO Falcone was shown video of officers putting § 87(2)(b) into the patrol car and said that the video was too blurry and that he did not recognize any of the officers. PO Falcone left a few minutes after the initial arrest when the crowd had dispersed.

PO Jozwicki

PO Matthew Jozwicki, a § 87(2)(b)-old white male who is 5’9” tall, weighs 190 pounds and has brown hair, was interviewed (encl. 22a-22b) at the CCRB on December 12, 2007. On the date of the incident, PO Jozwicki worked from 3:00 PM to 11:35 PM, and was partnered with PO Petric. PO Petric had returned to the precinct before this incident to process an arrest. PO Jozwicki was then assigned to work with other officers whom he did not recall in RMP number 2782. PO Jozwicki had no memo book entries in relation to the incident.

PO Jozwicki heard an officer call for an additional unit at the corner of § 87(2)(b). A couple of minutes later, the officer asked for multiple units to come. When PO Jozwicki arrived, he saw a large crowd of 70 or more civilians. Sgt. Quick and another officer were having a hard time trying to put handcuffs on a man who was resisting. The person was a male but he could not describe him and did not recognize a photo of § 87(2)(b) who was trying to arrest him along with another officer. They were about 2 or 3 yards away, “ten feet max” from the crowd. One of the officers was on the ground and the other officer was bending over.

PO Jozwicki did not see any officers draw their nightsticks or use them against § 87(2)(b). PO Jozwicki did not see any officers discharge their pepper spray. PO Jozwicki did not see a female being arrested near the male individual. PO Jozwicki did not recall seeing a female officer on the scene. Ultimately the officers were able to get him into handcuffs but he did not see which officer was able to handcuff him.

The large crowd was lined up at the edge of the sidewalk at the corner of § 87(2)(b) and § 87(2)(b). People were on the sidewalk and in the street as the arrest was taking place. The crowd was very loud but PO Jozwicki did not recall specifically what they said. Many individuals were throwing objects at the officers. PO Jozwicki turned his attention to the crowd in order to do crowd control. He saw a civilian throw what looked like D cell batteries at Sgt. Quick. He never

confirmed that but that's what he saw. He was not sure if the batteries hit Sgt. Quick or if he sustained any injuries. The individual throwing the batteries was a black male between 18 and 20 years old. Once the man began throwing batteries at officers, he was going to be placed under arrest for assault. PO Jozwicki lost sight of the individual in the crowd but another officer whom he could not identify kept him in sight and saw him run into a building. Many officers followed him and attempted to "extract him" from the building. However, they were blocked at the door by several civilians. There were some officers in front of PO Jozwicki and some officers behind him. The only officer he remembered was PO Harvey because he got hit in the head with an object and needed stitches. By the time PO Jozwicki got to the residence the door was wide open.

He saw PO Harvey get hit right in front of him and he helped him up onto his feet. PO Jozwicki then saw individuals being taken away in handcuffs but did not see them being handcuffed. PO Jozwicki grabbed one individual, put him in the back of his car and brought him back to the precinct. He was shown photos of § 87(2)(b) and § 87(2)(b) and said that he was not sure if it was them but between the two of them it would have been § 87(2)(b). The man was noncompliant but not to the point where they had to use "real physical force against him." They had to drag him to the car and he was shouting as they put him into the car. PO Jozwicki did not see any officers punch him or strike him while he was arrested. The man was resisting getting into the car and the officers pushed him into the car and shut the door. That man was the only individual that was placed in the back of his car.

PO Jozwicki stated that officers did go inside the house because the men were arrested inside and brought out but he did not know which officers went inside. PO Jozwicki never stepped foot inside of the house. PO Jozwicki did not see any officers strike § 87(2)(b) or § 87(2)(b) with nightsticks and never saw any officers use pepper spray. PO Jozwicki stated that there were at least 40 officers at the scene from many different commands.

PO Michael Harvey

PO Michael Harvey, a § 87(2)(b) old white male who is 5'9" tall, weighs 165 pounds and has brown hair, was interviewed (encl. 23e-23f) at the CCRB on October 29, 2007. On the date of the incident PO Harvey worked from 5:30 PM to 2:05 AM, was assigned to precinct Anti Crime, was partnered with PO Velez and Sgt. Encarnacion, and was in plainclothes in an unmarked blue car. PO Harvey's Line of Duty report and memo book (encl. 23a-23d) showed that at 8:00 PM he was en route to § 87(2)(b) after sustaining a laceration to his head.

PO Harvey responded to a call for help from a police officer at § 87(2)(b) and § 87(2)(b). He saw "chaos": a huge crowd and people screaming, not going inside their houses, and not being compliant. The officers were telling people to go inside and take their drinks inside. It was a chaotic scene but he did not recall specific disputes. He did not recall seeing any injured officers.

PO Harvey heard officers yelling that a man had struck an officer and had run into a specific nearby building. He did not know which officer had been struck or what the man looked like that had struck him. He was shown a picture of the doorway to § 87(2)(b)'s home and did not recall it specifically. He believed that he was one of the first officers to go into the house, but did not recall if he was first. A man was standing right in front of the doorway and said they could not come in. PO Harvey told him that they could go in to the building. PO Harvey then said "I'm coming in" scooted around him and was grabbed from behind on his shirt over his shoulder by the man. There were other individuals near the doorway but he had no interaction with him. He did not recall if he had gotten a description of the male they were looking for.

He and PO Velez tried to arrest the man, who was kicking and swinging his arms to get the officers off of him. They were on a stoop in front of the door. PO Harvey did not strike the man at any point and neither did PO Velez. They did not use pepper spray or any weapons and it took about 20 seconds to handcuff him. He was struggling with him standing up and then on the

ground. PO Harvey then got hit with handcuffs held by another officer. He became dizzy and walked away. PO Velez then took him to § 87(2)(b). He was shown a picture of § 87(2)(b) but did not recognize him and said that he wasn't paying attention to faces. He was shown the film of § 87(2)(b) being put into a car and could not identify any of the officers on the scene. He was shown a copy of the AIDED report and confirmed that it was accurate.

He was shown his statement on the AIDED report and said that it was accurate. He is sure that it was handcuffs that cut his face. He was shown a picture of § 87(2)(b) but said that he did not remember what he looked like. He did not recognize § 87(2)(b) from the video showing his arrest.

PO Javier Velez

PO Javier Velez, a § 87(2)(b) old Hispanic male who is 5'9" tall, weighs 185 pounds and has brown hair, was interviewed (encl. 24e-24f) at the CCRB on October 22, 2007. On the date of the incident PO Javier Velez worked from 5:30 PM to 2:05 AM, with Sgt. Encarnacion and PO Harvey. They were in plainclothes and drove an unmarked black Crown Victoria, RMP § 87(2)(b). PO Velez' memo book and Aided report (encl. 24a-24d) showed that at 9:00 PM he transported PO Harvey to § 87(2)(b).

Sgt. Quick called for a 10-13 to § 87(2)(b) and § 87(2)(b). When they got there, there was a huge crowd of at least 50 to 60 people who were screaming and yelling. He did not see anyone being arrested or anyone already in handcuffs when he arrived. PO Velez also did not observe any officers pepper spraying the crowd and did not use any weapons himself. He heard from several officers that Sgt. Quick had been punched in the face and that the man who had punched him had run into a nearby building. He did not see a man running into the building but was merely told that that was where he had gone. He did not recall if there was a further description of the individual.

PO Velez and his partner PO Harvey as well as several other officers ran into the building and one man tried to stop them in the doorway. There were several people in the vestibule but only one that was trying to block the officers from entering. He did not recall if other officers were in front of him and whether the door to the building was opened before they got there or opened for them. PO Harvey walked by the man and the man grabbed PO Harvey by his shirt and yanked him backwards. At that point PO Velez grabbed the man to prevent him from assaulting PO Harvey and attempted to place him in handcuffs.

The man began throwing punches and fighting to avoid being handcuffed. PO Velez struggled to handcuff the man by the doorway on the stoop in front of the house. PO Velez did not recall if he struck the man in order to affect the arrest and did not recall seeing any other officers strike him. The man was flailing his arms but he did not recall how specifically he was resisting being handcuffed. PO Velez got his handcuffs on one of the man's arms but could not get the other arm. Another officer put a handcuff on his other arm and they linked the two sets of handcuffs. The man did not sustain or complain of any injuries. During the handcuffing PO Harvey sustained an injury to his right face and was bleeding. PO Velez believed that PO Harvey sustained the injury from another officer's handcuffs.

PO Velez left at that point with PO Harvey and drove to § 87(2)(b). He did not recognize photos of any of the victims. He did not recall who were the other officers who responded. PO Velez was shown the videotape of § 87(2)(b) being placed into the patrol car and did not recognize any of the officers pushing § 87(2)(b) into the car stating that it was too blurry.

Sgt. Encarnacion

Sgt. Zoilo Encarnacion, a § 87(2)(b) old Hispanic male who is 5'9" tall, weighs 200 pounds, and has black hair, was interviewed (encl. 25d-25e) at the CCRB on October 29, 2007. On the date of the incident Sgt. Encarnacion worked from 5:26 PM to 2:10 AM, was assigned as the anticrime supervisor with PO Harvey and PO Velez, was in plainclothes, and was in unmarked RMP number § 87(2)(b). Sgt. Encarnacion's memo book (encl. 25a-25c) showed that at 8:00 PM he went to § 87(2)(b) for a line of duty injury to PO Harvey.

Sgt. Encarnacion received a radio call from an officer stating a 10-13 at § 87(2)(b) and § 87(2)(b). When he arrived there were 100 people in the street and they were all acting "disorderly" and the scene was "mayhem." He could not articulate what the crowd was doing other than being loud in the street. He did not recall seeing anyone being arrested or speaking to any officers.

He got separated from his team of PO Harvey and PO Velez and began to look for them. He found PO Harvey who had sustained a cut in his face while trying to handcuff someone. Sgt. Encarnacion left with PO Harvey and drove to § 87(2)(b).

Sgt. Encarnacion was shown photos of all of the defendants that were arrested and did not recognize anyone. Sgt. Encarnacion was also shown a video of § 87(2)(b) being placed into the patrol car and stated that he did not recognize any of the officers in the video.

PO Ferlie Fox

PO Ferlie Fox, a § 87(2)(b) old black female who is 5'5" tall and weighs 140 pounds, was interviewed (encl. 26e-26f) at the CCRB on March 25, 2008. PO Fox has been a member of the NYPD for 2 years and is assigned to the 83rd Precinct. On the date of the incident she worked from 3:00 PM to 11:35 AM, was assigned to sectors I and J, was partnered with PO Borges, was in uniform, and was in a marked RMP. PO Fox's memo book (encl. 26a-d) showed that from 8:07 PM to 9:07 PM she was taking her meal at the precinct stationhouse.

PO Fox stated that she was on meal during this incident and never went to § 87(2)(b) and § 87(2)(b). She had meal at the same time as her partner but they were not eating together. PO Fox stated that she did not know why the SPRINT listed her sector as responding to the scene.

PO Fox was shown photos of § 87(2)(b) and § 87(2)(b). She recognized § 87(2)(b) because PO Fox was the only female in the stationhouse when she was brought in and so she searched her. § 87(2)(b) was not complaining of any injuries and did not have any injuries on her person that PO Fox recalled. PO Fox stated that § 87(2)(b) was very loud and cursing throughout the time she was at the stationhouse. § 87(2)(b) was very agitated and PO Fox never found out why she had been arrested.

Sgt. John Egan

Sgt. John Egan, a § 87(2)(b) -old white male who is 6'3" tall, weighs 300 pounds and has brown hair, was interviewed (encl. 27c-27d) at the CCRB on April 4, 2008. Sgt. § 87(2)(b) Egan has been a member of the NYPD for 5 years and is assigned to the 83rd Precinct. On the date of the incident, Sgt. Egan worked from 3:00 PM to 11:35 PM, was assigned to sector EF, was partnered with PO Zayas in marked RMP 2332, and was in uniform.

Sgt. Egan's memo book (encl. 27a-27b) showed he had an arrest at 5:17 PM and was at the precinct stationhouse after that filling out the arrest paperwork. His next memo book entry after that was end of tour. Sgt. Egan had no recollection of the incident at § 87(2)(b) and § 87(2)(b). Sgt. Egan had no recollection of arrests being brought in to the precinct. Sgt. Egan believed that while he was at the stationhouse his partner was reassigned and was sent back out

into the field again. Sgt. Egan was shown photos of all of the victims and did not recall any of them.

Video Recording of Incident

A videotape, without audio, was provided to the CCRB by § 87(2)(b) s ex-wife. The videotape was taken by an unidentified neighbor of § 87(2)(b) s who gave him the video the day after the incident. The video is filmed from a second story and is sometimes blurry and at other times “jumpy.” The beginning timer is set at about 17:04 and the tape ends at 4:40

The video begins with a large crowd gathered around a police vehicle as officers put a prisoner into the car. Civilians can be seen having animated discussions with officers. About 14:35 one can see tables set up in the street which are blocked in with cones. At 13:57 a number of officers are running down § 87(2)(b). About 13:30 one can see where grills are set up in front of a store on the corner of § 87(2)(b). About 12:50 officers go to the entranceway of § 87(2)(b). The camera then goes back to where people are by the grills a few buildings away.

§ 87(2)(b) already in handcuffs, is being taken to a marked patrol car at 11:34 on the video timer. Two uniform officers put him in the back of the patrol door and try to close the door. At 11:33-32, § 87(2)(b) sticks his head out the door. Five uniformed officers surround him. A black male officer who is standing next to the car extends his arm towards § 87(2)(b) s face. § 87(2)(b) turns his head in response. At 11:30 he lunges forward and officers restrain him. At 11:28-27 they are trying to push his head down and at 11:26 they are pushing him into the car. At 11:25 while they are pushing him into the car he hits his head on the door. At 11:24, they grab him again. The captain comes over at 11:15 and at 11:01 they are able to close the door. § 87(2)(b) is resisting being placed into the patrol car. At least 5 male officers, some in uniform, are placing § 87(2)(b) into the patrol car and are shoving him and pushing him. After being placed into the patrol car, a white male can be seen on the other side of the car (the driver’s side) opening the back door, and appears to jerk his arm into the car in a punching motion two times. The officer is a white male in a yellow shirt but otherwise indistinguishable.

The video continues for several more minutes with officers and civilians moving about but no remarkable actions..

Communications Records

SPRINT Report (encl.29a-29k)

The SPRINT Report for the above incident shows that at 9:00 PM the 83rd detail sergeant requested 1 additional unit for a non emergency and that sectors A, E, and I from the 83rd Precinct were the first officers to respond. Three minutes later more units were requested to the location and several sectors from the 83rd and 81st Precincts responded to the location. At 9:10 PM the detail sergeant described the scene as a mob and stated that additional officers are needed for crowd control. At 9:19 PM the level one mob is terminated, and at 10:13 PM the detail sergeant had six under at the location.

Police Documents

Command Log (32a-32b)

The 83rd Precinct command log for the date of the incident shows that at 9:30 PM PO Morales signed in six arrests, § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b). All of their physical and mental conditions were listed as appearing normal. All of those arrested were charged with § 87(2)(b), and § 87(2)(b) and § 87(2)(b) were all charged with § 87(2)(b). PO Morales signed in arrestee § 87(2)(b) at 10:40 PM and stated that his physical condition appeared normal.

Prisoner Holding Pen Roster (encl 33a-33e)

The 83rd Precinct Prisoner Holding Pen Roster shows that at 9:20 PM PO Morales signed in § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b). At 11:15 PM PO Morales signed in § 87(2)(b).

Roll Call (encl. 30a-30k)

The 83rd Precinct roll call shows PO Marsden and PO Falcone were partnered together and assigned to sector AB. PO Velez, PO Harvey, and Sgt. Encarnacion were partnered together and assigned to precinct Anti Crime. PO Jozwicki and PO Pedrick were partnered together and assigned to sector CD. PO Egan and PO Zayas were partnered together and assigned to sector EF. PO Borges and PO Fox were partnered together and assigned to sector IJ.

Medical treatment of Prisoner Reports (encl. 41u)

The command advised it had no record of any reports.

Arrest Photos (encl. 35a-35d)

The arrest photos for § 87(2)(b) and § 87(2)(b) show no signs of injuries.

Civil Law Suits

None of the other civilians, other than § 87(2)(b) has filed a civil law suit (encl. 41e). Although a 50H hearing (encl.8g-8cc) was held last year, there has been no disposition on the suit.

Disposition of Arrests

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conviction History

§ 87(2)(g)

Substantiated CCRB Allegations

None of the subject officers has ever had a CCRB allegation substantiated against them (encl. 2a-2c).

Conclusions and Recommendations

Officer Identification

§ 87(2)(g)

§ 87(2)(g)

PO Marsden admitted to being one of the first two officers to respond to the scene and fit the description of a 6'3" tall white male with glasses who used a nightstick to place § 87(2)(b) in a chokehold. § 87(2)(g)

§ 87(2)(b) identified PO Morales by name and description as the officer that kicked her and PO Morales acknowledged her interaction with § 87(2)(b) § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) alleged being tackled by many officers. § 87(2)(b) § 87(2)(b) alleged being thrown down while § 87(2)(b) § 87(2)(b) alleged being kicked, punched, and hit with a nightstick. Neither individual could describe specific officers using specific force against them except for § 87(2)(b)'s description of a 5'9" tall muscular Hispanic male in plainclothes who allegedly stepped on his head. This description matches PO Javier Velez, who admitted to struggling with § 87(2)(b) § 87(2)(g)

§ 87(2)(b) was the only civilian who alleged the officers entered and searched the basement of § 87(2)(b) § 87(2)(g)

Undisputed Facts

It is not in dispute that Sgt. Quick attempted to arrest § 87(2)(b) When he resisted, Sgt. Quick and additional officers had to use force to restrain him. It is not in dispute that at least one officer discharged his pepper spray and officers, including Sgt. Quick, used batons to subdue § 87(2)(b) It is not in dispute that PO Morales used force to arrest and place § 87(2)(b) in a police car.

It is undisputed that officers tried to enter § 87(2)(b) a multi-family residence, where the § 87(2)(b) brother would not authorize them to enter. It is undisputed that officers used force to arrest § 87(2)(b) and § 87(2)(b).

Disputed Facts

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Assessment of Evidence

§ 87(2)(g)
[REDACTED] PO Marsden denied using any weapons against § 87(2)(b) and other officers corroborated that they did not see anyone place § 87(2)(b) in a chokehold. § 87(2)(b) and § 87(2)(b) all stated they did not see an officer use the nightstick to put § 87(2)(b) in a chokehold. Other witnesses, including § 87(2)(b) (in his CCRB statement only) and § 87(2)(b) said that an officer did use his nightstick to put § 87(2)(b) in a chokehold. § 87(2)(b) did not seek any medical treatment. Neither § 87(2)(b)'s arrest photo nor the photos the investigator took, showed any injuries on his neck. § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b) alleged that PO Morales kicked her in the thigh, which caused her to “fall” into the patrol car. § 87(2)(b) was the only civilian to corroborate § 87(2)(b)'s allegation. PO Morales denied kicking § 87(2)(b) but stated that § 87(2)(b) was kicking the side of the patrol car when PO Morales tried to put her in. Although PO Fox was not present at the arrest location, she stated that § 87(2)(b) was very agitated when she arrived at the stationhouse. § 87(2)(g)

[REDACTED]
[REDACTED]

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) alleged that they had returned to their house because officers were using pepper spray. Officers told them they wanted to enter § 87(2)(b) a multi-family building, because they said they had seen someone run inside. § 87(2)(b) indicated the § 87(2)(b) brothers and their friends were standing outside holding cans of beer. PO Falcone and PO Jozwicki said members of crowd were throwing things at the police. PO Jozwicki believed a young male had thrown batteries at the sergeant. PO Jozwicki lost sight of this man but stated another unidentified officer saw him run into a specific building. PO Jozwicki and other officers, including PO Harvey, followed the assailant into the building pointed out by the other officer. PO Velez heard Sgt. Quick had been punched in the face. Sgt. Quick denied that he nor another

officer was struck with any objects and could not explain why officers tried to enter § 87(2)(b) although he indicated officers were arresting non-compliant members of the crowd who were most vocal. Finally, the criminal court complaint indicated that § 87(2)(b) was seen putting marijuana in a mailbox. § 87(2)(b) corroborated in his official statement that he was standing next to the mailbox § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that he was slammed to the ground after he tried to block the entranceway. Officers kicked, punched, and hit him with a nightstick. PO Velez then stepped on his head and pressed it into the ground.

§ 87(2)(b) admitted that he was trying to yell and was “kicking to signal that he was not resisting them.” § 87(2)(g)

§ 87(2)(g)

PO Velez indicated § 87(2)(b) then tried to punch PO Harvey while PO Harvey indicated § 87(2)(b) was swinging his arms and kicking as the officers tried to handcuff him. § 87(2)(g)

§ 87(2)(g)

The videotape showed an officer leaning into the back seat of the police vehicle after § 87(2)(b) had been placed inside. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) PO Morales denied hearing anyone complain about injuries at any point and denied refusing medical treatment. No one stated that they witnessed such a conversation. § 87(2)(g)

§ 87(2)(g)

Allegation A: Officers used pepper spray against § 87(2)(b) and individuals.

Per Patrol Guide 212-95 (encl. 1a-b), “pepper spray may be used when a member reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force or to take a resisting emotionally disturbed person into custody.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B: Officers struck § 87(2)(b) with batons.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation C: PO Garrett Marsden used a chokehold against § 87(2)(b)

§ 87(2)(g)
[REDACTED] d.

Allegation D: PO Morales used physical force against § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation E: Officers used physical force against § 87(2)(b)

Allegation F: PO Javier Velez used physical force against § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G: Officers used physical force against § 87(2)(b)

Allegation H: An officer used physical force against § 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]

Allegation I: Officers entered and searched § 87(2)(b) , Brooklyn.

§ 87(2)(g)
[REDACTED]
[REDACTED]

Allegation J: Officers used force against § 87(2)(b) **and** § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation K: PO Sirka Morales refused to provide medical treatment to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: